

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,	:
	:
	:
Plaintiff,	:
	2:22-cr-14
	:
	JUDGE SARGUS
v.	:
	:
	:
MARCO R. MERINO,	:
	:
	:
Defendant.	:

PRELIMINARY ORDER OF FORFEITURE

This matter is before the Court on the United States' Motion for a Preliminary Order of Forfeiture (Doc. 47). In support of its motion, the United States asserts that:

On January 28, 2022, an Information (Doc. 30) was filed in this case charging Defendant Marco R. Merino with Conspiracy to Distribute and to Possess with Intent to Distribute 400 Grams or More of a Mixture or Substance Containing a Detectable Amount of Fentanyl, in violation of 21 U.S.C. §§ 846 and 841(a)(1) and (b)(1)(A)(vi) (Count 1), and Federal Program Bribery, in violation of 18 U.S.C. § 666(a)(1)(B) (Count 2); and

In accordance with Rule 32.2 of the Federal Rules of Criminal Procedure, the Information also contained a Forfeiture Allegation notifying Defendant Marco R. Merino that upon conviction of the offense alleged in Count 1 of the Information, in violation of 21 U.S.C. §§ 846 and 841(a)(1) and (b)(1)(A)(vi), he shall forfeit to the United States any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of the such violation, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation, in accordance with 21 U.S.C. § 853(a)(1) and (2); and

On January 28, 2022, a Plea Agreement (Doc. 31) was also filed in this case in which Defendant Marco R. Merino agreed to plead guilty to the offenses alleged in Counts 1 and 2 of the Information. Defendant Merino also agreed, pursuant to 21 U.S.C. § 853, to forfeit all of his right, title, and interest in any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of the violation alleged in Count 1 of the Information to which he agreed to plead guilty, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation; and

On February 8, 2022, Defendant Marco R. Merino appeared before this Court and entered Pleas of Guilty to Counts 1 and 2 of the Information and agreed to the forfeiture outlined in the Forfeiture Allegation of the Information in accordance with his Plea Agreement. (*See* Courtroom Minutes, Doc. 34); and

The United States asserts that although the Federal Bureau of Investigation (“FBI”) seized several firearms and approximately \$1,000.00 in United States currency during the investigation of Defendant Merino, the government is pursuing non-judicial (administrative) forfeiture of these assets and, therefore, does not expect that a judicial order will be necessary to complete the forfeiture and/or disposal of the seized assets. (*See* United States’ Motion for a Preliminary Order, Doc. 47.) However, if the FBI cannot, for any reason, complete the administrative forfeiture of the seized property, the United States asserts that it will pursue disposal of these assets through the judicial forfeiture process. (*Id.*)

Therefore, in order to preserve the United States’ ability to pursue judicial forfeiture of any property seized from Defendant Merino in connection with this case, the United States requests that the Court enter a general Preliminary Order of Forfeiture, in accordance with Rule 32.2(b)(2)(C) of the Federal Rules of Criminal Procedure, ordering Defendant Marco R. Merino

to forfeit any property described in 21 U.S.C. § 853(a)(1) and (2) which can be amended at a later date if judicial forfeiture of specific property is necessary in this case.

Therefore, upon consideration of the United States' motion and the record in this case, it is hereby **ORDERED, ADJUDGED, AND DECREED:**

1. That in accordance with 21 U.S.C. § 853(a)(1) and (2) and Rule 32.2 of the Federal Rules of Criminal Procedure, Defendant Marco R. Merino shall forfeit to the United States all property constituting, or derived from, proceeds that were obtained, directly or indirectly, as a result of the violation of 21 U.S.C. §§ 846 and 841(a)(1) and (b)(1)(A)(vi) to which he has pleaded guilty, and all property that was used, or was intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation.
2. That as provided by Rule 32.2(e)(1) of the Federal Rules of Criminal Procedure, if judicial forfeiture of specific property is necessary in this case, the United States may move to amend this Preliminary Order of Forfeiture to seek forfeiture of such property
3. That the United States is authorized to conduct any discovery proper in identifying, locating or disposing of the subject property in accordance with Fed. R. Crim. P. 32.2(b)(3).
4. That, in accordance with 21 U.S.C. § 853(n) and Fed. R. Crim. P. 32.2(b)(6), as property subject to judicial forfeiture is identified, the United States shall publish notice of this Order, or any subsequent orders, and of its intent to dispose of the subject property in such manner as the Attorney General may direct. The United States shall also provide written notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding.

5. That pursuant to Fed. R. Crim. P. 32.2(b)(4), this Preliminary Order of Forfeiture, and any subsequent amended order(s), shall become final as to Defendant Marco R. Merino at the time of sentencing and shall be made part of the sentence and included in the judgment

6. That the Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

ORDERED this 31st day of January, 2023.

s/Edmund A. Sargus, Jr.

HONORABLE EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE

Respectfully submitted,

KENNETH L. PARKER
United States Attorney

s/Peter K. Glenn-Applegate
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Assistant United States Attorney